



Paper No. 5

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OFFICE OF PETITIONS

In re Application of :
Johnson, et al. :
Application No. 10/046,348 : DECISION ON PETITION
Filed: October 25, 2001 :
Title: WIRELESS COMMUNICATION :
NETWORK WITH TRACKING DISH ANTENNA :

This is a decision on the "Petition under 37 CFR 1.53(e)" filed June 26, 2002, to accord the above-identified application a filing date of October 25, 2001, with Fig. 7B as a part of the original application disclosure.

Application papers in the above-identified application were filed on October 25, 2001. However, on April 22, 2002, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, Figures 7B described in the specification appeared to have been omitted.

In response, applicants timely filed the instant petition. Applicants contend that Figure 7B was sent with the original filing. In support thereof, applicants submit *inter alia* a copy of the fifteen sheets of drawings as applicant maintains they were filed on October 25, 2001; and a copy of their return postcard from the USPTO. The postcard receipt, itemizes "Drawings: 15 Sheets" among the enclosures, bears a USPTO date-stamp of October 25, 2001 with application No. assignment of 10/046,348, and lacks any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on October 25, 2001, included fifteen (15) sheets of drawings. A review of the papers in the application presently accorded a filing date of October 25, 2001 reveals that fourteen (14) sheets of drawings are present. The drawings in the file with the missing Fig. 7B resubmitted on petition constitute the fifteen (15) sheets of drawings noted on the postcard, and thus, entitled to a filing date of October 25, 2001.

In view thereof, the petition is GRANTED.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 20-0678, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of October 25, 2001, using the application papers received in the Office and presently accorded that date; and the drawing sheet containing Figure 7B resubmitted on petition filed June 26, 2002;
- for indication in Office records that fifteen (15) sheets of drawings were present on filing; and
- to await the additional required responses to the Notice to File Missing Parts, an executed declaration and late surcharge.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy